THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.19349 OF 2007

DATED: 13-09-2007

BETWEEN

Theegala Rajaiah,
S/o. T. Lingaiah,
R/o. H.No.13-6-437/A/72/8/A,
Indira Nagar, Langar House,
Hyderabad and another.

...PETITIONERS

AND

The District Collector,
Ranga Reddy District,
Lakdikapool,
Hyderabad and another.

...RESPONDENTS

ORDER:

Petitioners submit that they are the sons of Theegala Lingaiah, who was the original owner and possessor of the land in an extent of 2 acres in Sy.No.27/2 (Old Sy.No.117) situated at Khajaguda Village, Serilingampally Mandal, Ranga Reddy District. They further submit that Khajaguda village was a Jagir village, their father was cultivating the said land under Jagirdar and after abolition of Jagirs by virtue of Gazette No.32 dated 12th Thir 1356 Fasli issued under Telangana Revenue Act, their father became pattedar as per clause (2) of the Circular issued under the Jagir Regulations. They further submit that after conducting Jamabandi in 1953 mutation has been effected and the pahanies clearly disclose that the land stands in the name of their father as pattedar.

2. They further submit that Sy.Nos.117, 119, and 122 were converted into new Sy.No.27 classified as Poramboke without any notice to the pattedar or persons interested, therefore, the land holders in Sy.Nos.119 and 122 initiated action for rectification of survey errors and the District Revenue Officer, Ranga Reddy District by his proceedings No.D1/6770/93 dated 31.01.1995 held that the land in Sy.No.27 corresponding to old Sy.Nos.119 and 122 situated at Khajaguda has been wrongly included in Sy.No.27 and directed to change all the records. Some other claimants also filed W.P.No.21689 of 2000 before this Court for correction of survey errors and the same was allowed by order dated 19.04.2005 and the appeal filed before the Division Bench is pending adjudication with a direction to maintain status quo.

3. Petitioners further submit that their father died on 21.12.1987. While so, a notice in Form-I in proceedings No.B/480/2006 dated 01.12.2006 was said to have been served on the deceased person – Theegala Lingaiah, and the alleged purchaser, A. Rajesh Kumar

S/o. A. Rajaiah, to show cause within 15 days as to why the purchaser shall not be summarily dispossessed. They submit that the purchaser has not submitted any explanation and the petitioners, who are the legal heirs of Theegala Lingaiah, filed a representation dated 14.12.2006 stating that said land is a patta land of their father and they along with other brothers are legal heirs and they are in possession and doing cultivation of the said land and further stated that they require one month time to get the relevant records to submit explanation. It is stated that though the representation has been filed to grant one-month time, without rectifying the mistake a notice has been issued in favour of the legal heirs of the original assignee by impugned order dated 19.01.2007 in proceedings No.B/480/2006 by the Deputy Collector & Mandal Revenue Officer, Serilingampally Mandal, on the ground that the said land has been alienated in favour of Rajesh Kumar in contravention of Section 3(2) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act') and that the purchaser converted

the land into plots.
The said order has been passed under Section 4(a) of the Act resuming the said land to the Government custody duly evicting the purchaser.

4. Learned counsel for the petitioners submits that, in fact, the said land was not at all alienated either by the father of the petitioners Theegala Lingaiah or by the petitioners in favour of Rajesh Kumar and it is not an assigned land but it is a patta land. He further submits that without impleading the legal heirs the impugned order has been passed, therefore, the petitioners seek to set aside the same and remand the matter to the original authority.

5. Learned Government Pleader appearing for the respondents submits that if the petitioners are aggrieved by the impugned order an appeal lies under Section 4-A(1) of the Act to the Revenue Divisional Officer, Chevella.

6. Learned counsel for the petitioners further submit that there is no dispute that the petitioners are the legal heirs of late Theegala Lingaiah and it is the case of the petitioners that it is not an assigned land but a patta land, therefore, even assuming that the said land is an assigned land, under Section 4(1)(b) proviso of the Act, the said land is liable to be restored in favour of the original assignee or his legal heirs as the case may be, after taking possession from the purchaser. He further submits that if there is second sale then only it is open for the Government to resume the said land, but without considering the entitlement of the petitioners for restoration under Section 4(1)(b) proviso of the Act, passing the impugned order resuming the said land is illegal and without any justification.

7. I am of the opinion that it is just and proper for the petitioners to advance all these contention before the appellate authority.

8. Having regard to the facts and circumstances of the case,
the petitioners are permitted to file an appeal against the impugned order in

proceedings No.B/480/2006 dated 19.01.2007 before the Revenue Divisional Officer, Chevella, Ranga Reddy District, within two weeks from today and pending disposal of the appeal, the petitioners shall not be dispossessed from the land in an extent of 2 acres in Sy.No.27/2 situated at Khajaguda Village, Serilingampally Mandal, Ranga Reddy District. If no appeal is filed within two weeks from today, it is open for the respondents to take appropriate action in accordance with law.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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V. ESWARAIAH, J

September 13, 2007
Note: Furnish C.C. of the order by 17.09.2007.
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